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GOVERNMENT OF KERALA.

NOTIFICATION

No. 5917-LA. 4/63. *Dated, Trivandrum, 28th October, 1963.*

The following Bill together with the Statement of Objects and Reasons and memorandum regarding delegated legislation is published under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Legislature Secretariat,
Trivandrum.

D. TIRUMALAI,
Secretary,
Legislative Assembly.

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TRIVANDRUM, 1963.

L. A. Bill No. 36 of 1963

THE KERALA MEDICAL PRACTITIONERS BILL, 1963.

A

BILL

to unify and amend the law regulating the qualifications and providing for the registration of practitioners of modern medicine, Indian medicine and homoeopathic medicine.

Preamble.—WHEREAS it is expedient to unify and amend the law regulating the qualifications and providing for the registration of practitioners of modern medicine, Indian medicine and homoeopathic medicine.

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. *Short title, extent and commencement.*—This Act may be called the Kerala Medical Practitioners Act, 1963.

(2) It extends to the whole of the State of Kerala.

(3) This section shall come into force at once. The remaining provisions shall come into force on such date as the Government may, by notification in the Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Definitions.*—In this Act, unless the context otherwise .equires,

(a) "council" means, in relation to matters pertaining to modern medicine, the Council of Modern Medicine, in relation to matters pertaining to Indian medicine, the Council of Indian Medicine, and in relation to matters pertaining to homoeopathic medicine, the Council of Homoeopathic Medicine established under section 3;

(b) "homoeopathy" means the system of medicine founded by Dr. Hahenmann and the expression "homocopathic" shall be construed accordingly;

(c) "hospitals," "asylums," "infirmaries," "dispensaries," "clinics," "surgeries," "lying-in-hospitals," "sanatoria," "nursing homes," "vaidyasalas," "dharmasalas" and other cognate expressions mean institutions where the methods of treatment carried on are those which are approved by the appropriate council;

(d) "Indian medicine" means the ayurvedic medicine, the siddha medicine and the unani tibbi medicine whether supplemented or not by such modern advances as the Council of Indian medicine may, from time to time recognise;

(e) "medical school or college" means any institution where teaching or training in the art and science of healing for human ailments according to modern medicine, Indian medicine or homoeopathic medicine is imparted;

(f) "modern medicine" means the allopathic system of medicine;

(g) "practitioner" means any person ordinarily engaged in the practice of modern medicine or Indian medicine or homoeopathic medicine, as the case may be;

(h) "president" means the president of the appropriate council;

(i) "qualified practitioner" means a practitioner holding a recognised qualification;

(j) "recognised qualification" means,—

(i) in relation to modern medicine, a qualification specified in Part A of the Schedule;

(ii) in relation to Indian medicine, a qualification specified in Parts B, C and D of the Schedule; and

(iii) in relation to homoeopathic medicine, a qualification specified in Part E of the Schedule;

(k) "register" means a register of practitioners maintained under this Act;

(l) "registered practitioner" means a practitioner whose name is for the time being entered in a register;

(m) "Registrar" means the Registrar of the appropriate council appointed under section 19;

(n) "regulations" means regulations made by the appropriate council under this Act;

(o) "rules" means the rules made by the Government under this Act;

(p) "Schedule" means the Schedule to this Act;

(q) "State" means the State of Kerala.

PART II

ESTABLISHMENT OF COUNCILS

3. *Establishment, incorporation and constitution of councils.*—(1) The Government shall, by notification in the Gazette, establish the following three councils, namely:—

(a) the Council of Modern Medicine;

(b) the Council of Indian Medicine; and

(c) the Council of Homoeopathic Medicine.

Each such council shall be a body corporate, and have perpetual succession and a common seal and shall by the said name sue and be sued.

(2) (i) The Council of Modern Medicine shall consist of the following members, namely:—

(a) the Director of Health Services, *ex officio;*

(b) one member elected by the members of the Faculty of Medicine, University of Kerala, from among themselves;

(c) Three members, one elected by the teachers of the Medical College, Trivandrum, from among themselves, one elected by the teachers of the Medical College, Kozhikode from among themselves and one elected by the teachers of the Medical College, Kottayam, from among themselves.

(d) nine members, one from each revenue district elected by the registered practitioners of modern medicine of that district from among themselves; and

(e) two members nominated by the Government.

(ii) In making nominations under clause (i) (e), the Government shall have due regard to the claims of women, of medical missions and of other groups of practitioners, representatives of whom have not been elected by the electorates referred to in clauses (i) (b), (i) (c) and (i) (d).

(3) The Council of Indian Medicine shall consist of the following members, namely:—

(a) The Director of Indigenous medicine, *ex officio;*

(b) one member elected by the members of the Faculty of Ayurveda, University of Kerala, from among themselves;

(c) three members elected from among themselves by the teachers of—

(i) The Ayurveda College, Trivandrum;

(ii) The Ayurveda College, Trippunithura;

(iii) The Keraleeya Ayurveda Patasala, Shoranur;

(iv) The Aryavaidya Patasala, Kottakkal; and

(v) The Madhava Memorial Ayurveda College, Cannanore;

(d) nine members, one from each revenue district, elected by the registered practitioners of Ayurvedic medicine of that district from among themselves;

(e) four members nominated by the Government, from among the registered practitioners of Indian medicine, of whom—

(i) one shall be a registered practitioner in Siddha medicine, if there are not less than fifty registered practitioners in that medicine in the State; and

(ii) one shall be a registered practitioner in Unani Tibbi medicine, if there are not less than fifty registered practitioners in that medicine in the State:

Provided that if the number of registered practitioners in the State either in the Siddha medicine or in the Unani Tibbi medicine is less than fifty, the number of members to be nominated under this clause shall be three, and if the number of registered practitioners both in the Siddha Medicine and the Unani Tibbi medicine is less than fifty, the number of members to be so nominated shall be two.

(4) The Council of Homoeopathic Medicine shall consist of the following members, namely:—

(a) nine members, one from each revenue district, elected by the registered practitioners of homoeopathic medicine of that district from among themselves:

(b) one member elected from among themselves by the members of the teaching staff of homoeopathic colleges recognised by the Government; and

(c) two members nominated by the Government.

(5) On the constitution of the first council of Modern Medicine, Council of Indian Medicine or Council of Homoeopathic Medicine under this Act, the corresponding council constituted under any enactment repealed by this Act shall stand dissolved.

4. *Nomination of members in default of election.*—If any of the members mentioned in clause (i) (b), (i) (c) or (i) (d) of sub-section (2) or in clause (b), (c) or (d) of sub-section (3) or in clause (a) or (b) of sub-section (4) of section 3 is not elected, the Government may nominate as member such qualified registered practitioner as they may deem fit; and the practitioner so nominated shall, for the purposes of this Act, be deemed to have been duly elected under clause (i) (b), (i) (c) or (i) (d) of sub-section (2) or clause (b), (c) or (d) of sub-section (3) or clause (a) or (b) of sub-section (4) of section 3, as the case may be.

5. *Qualification of members.*—Every member of a council shall be a registered practitioner and the holder of a recognised qualification.

6. *Nomination of members of first councils.*—Notwithstanding anything contained in sections 3, 4 and 5, in the case of the first councils constituted under this Act, all the members other than the *ex officio* members shall be nominated by the Government:

Provided that in the case of the Council of Modern Medicine the members so nominated shall be holders of recognised qualifications.

7. *Disqualifications for membership.*—A person shall be disqualified for being elected or nominated, as and for being, a member of a council,—

(a) if he has not attained the age of majority;

(b) if he is an undischarged insolvent;

(c) if he is of unsound mind and stands so declared by a competent court, a deaf-mute or a leper;

(d) if he is not a resident of the State;

(e) if he has been punished by the appropriate council or by the Medical Council established under the Travancore Medical Practitioners Act, 1119 (Act VII of 1119) or the Travancore-Cochin Medical Practitioners Act, 1953 (Act IX of 1953) or the Madras Medical Registration Act, 1914 (Madras

Act IV of 1914), in any manner for infamous conduct in the profession or if he is dismissed from service under any Government;

(f) if his name has been removed from the appropriate register maintained under this Act and has not been reinstated;

(g) if having been elected under clause (i)(b) of sub-section (2) of section 3, he ceases to be a member of the Faculty of Medicine, University of Kerala;

(h) if having been elected under clause (i)(c) of sub-section (2) of section 3, he ceases to be a teacher of the Medical College, Trivandrum or the Medical College, Kottayam or the Medical College, Kozhikode as the case may be;

(i) if having been elected under clause (b) of sub-section (3) of section 3, he ceases to be a member of the Faculty of Ayurveda, University of Kerala;

(j) if having been elected under clause (c) of sub-section (3) of section 3, he ceases to be a teacher of the Ayurveda College, Trivandrum, or of the Ayurveda College, Trippunithura, or of the Keraleeya Ayurveda Patasala, Shoranur, or of the Aryavaidya Patasala, Kottakkal, or of the Madhava Memorial Ayurveda College, Cannanore;

(k) if having been elected under clause (b) of sub-section (4) of section 3, he ceases to be a member of the teaching staff of any of the homoeopathic colleges recognised by the Government.

8. *Term of office of members.*—(1) Save as otherwise provided in this Act, the term of office of the members other than the *ex officio* members shall—

(a) in the case of the first councils constituted under this Act, be for a period of two years commencing from the date on which the first meeting of such council is held; and

(b) in the case of any council other than the first councils constituted after the commencement of this Act, be for a period of five years from the date on which the first meeting of such council is held.

(2) An outgoing member shall continue in office until the election or nomination, as the case may be, of his successor.

(3) An outgoing member shall be eligible for re-election or re-nomination, if otherwise qualified.

9. *President and Vice-President.*—(1) Each council shall elect one of its members to be its President and also another member to be its Vice-president:

Provided that the President of the first councils constituted under this Act, shall be nominated by the Government.

(2) The President shall be deemed to have vacated his office on resignation or on the expiry of bis term of office as a member or on his otherwise ceasing to be a member.

(3) The Vice-president shall be deemed to have vacated his office—

(a) on resignation or on the expiry of his term of office as a member or on his otherwise ceasing to be a member; and

(b) on his election as President.

(4) When the office of the President is vacant, the Vice-president shall exercise the functions of the President until a new President assumes office.

(5) When the office of the President is vacant or the President is incapacitated and there is either a vacancy in the office of the Vice-President or the Vice-President is incapacitated, the Registrar shall, after giving notice of not less than seven clear days to the members of the council, convene a meeting for the election of a President, if there is a vacancy in that office, and until a new President or Vice-president is declared elected and assumes office, or either the President or the Vice-president recovers from his incapacity, as the case may be, the Director of Health Services shall, notwithstanding anything contained in this Act, be *ex officio* member and President of the Council.

(6) An outgoing President or Vice-president is eligible for re-election if otherwise qualified.

Explanation.—A new President or Vice-president shall be deemed to have assumed office on his being declared elected as such.

10. *Vacancies.*—If a vacancy occurs in the office of a member of a council through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the term of his office, the vacancy shall be filled in the manner prescribed by rules. Any person elected or nominated to fill the vacancy shall, notwithstanding anything contained in section 8, hold office only so long as the member in whose vacancy he is elected or nominated would have held office if the vacancy had not occurred:

Provided that it shall be lawful for a council to exercise its powers under this Act, notwithstanding such vacancy.

11. *Election etc., to be notified in the Gazette.*—All elections, nominations and appointments of the President, Vice-president, members of each council and the Registrar shall be notified in the Gazette.

12. *Cessation of membership.*—A member of a council shall be deemed to have vacated his seat:—

(a) on the expiry of the term of office;

(b) on resignation;

(c) on absence without excuse sufficient in the opinion of the appropriate council from three consecutive meetings of such council; or

(d) on becoming subject to any of the disqualifications mentioned in section 7.

13. *Resignation of membership.*—Any member or Vice-president may, at any time, resign his office by giving notice in writing to the President; the President may resign his office by giving notice in writing to the appropriate Council.

Such resignation shall take effect in the case of a member or Vice-president from the date on which it is received by the President and in the case of the President from the date on which it is placed before the council.

14. *Validity of proceedings.*—(1) No disqualification of, or defect in, the election or nomination of any person acting as a member of a council or as President or Vice-president or as presiding member of a meeting shall be deemed to invalidate any act or proceeding of such council in which such person has taken part.

(2) No act done by a council shall be deemed to be invalid on the ground merely of the existence of any vacancy in or any defect in the constitution of such council.

15. *Time and place of meeting of council.*—Each council shall meet at such time and place and every meeting of the council shall be summoned by such person and in such manner as may be prescribed by regulations:

Provided that until such regulations are made, it shall be lawful for the President to summon a meeting of such council at such time and place as he may deem expedient by letter addressed to each member.

16. *Presidency at meetings of council and procedure thereat.*—(1) Every meeting of a council shall be presided over by the President; in his absence by the Vice-president and in the absence of both the President and the Vice-president by a member chosen by the meeting to preside for the occasion.

(2) The President shall preserve order and shall decide all points of order at or in connection with meetings. There shall be no discussion on any point of order and the decision of the President on any point of order shall be final.

(3) The Vice-president or member presiding for the occasion shall, for that meeting and during the period that he presides over it, have all the powers of the President.

(4) All questions at a meeting of a council shall be decided by the votes of the majority of the members present and voting at the meeting. Five members in the case of the Council of Modern Medicine, six members in the case of the Council of Indian Medicine and three members in the case of the Council of Homoeopathic Medicine shall form the quorum. If within half an hour from the time appointed for the meeting there is no quorum, the meeting shall stand adjourned to the same day in the following week at the same time and place, and if at the adjourned meeting there is no quorum within half an hour from the time appointed for the meeting, the members present shall form a quorum.

(5) At every meeting of a council, the President shall, in addition to his vote as a member of the council, have a second or casting vote in case of an equality of votes.

17. *Payment of fees and allowances.*—There shall be paid to the President, Vice-president and other members of each council such fees and allowances for attendance in connection with the meetings of the council or of any committee thereof and such travelling allowances as shall, from time to time, be prescribed by rules.

18. *Executive Committee.*—Each council shall have power to appoint an executive committee and other committees from among its members and to delegate to such committee such of the powers and duties vested in the council as the council may deem fit, other than those provided by sections 19 and 38.

19. *Registrar.*—(1) The Government shall, after consulting each council, appoint a Registrar who shall be the Secretary to such council. He shall also be the Secretary to the Committee appointed under sub-section (2) of section 38. The Registrar shall receive such salary and allowances as may be prescribed by rules. The Government may grant him leave and may appoint a person to act in his place.

(2) Subject to such rules as may be prescribed, each council shall have power to punish the Registrar. Any order of such council punishing the Registrar shall not take effect without the previous approval of the Government.

(3) Each council may appoint or employ such other officers and servants as it may deem necessary for the purposes of this Act:

Provided that the number and designations of such officers and servants and their salaries and allowances shall be subject to the previous approval of the Government.

(4) The method of recruitment and the conditions of service such as pay, allowances, promotions, leave, pension, gratuity and provident fund relating to the officers and servants appointed or employed under sub-section (3) shall be governed by the rules applicable to officers and servants of the Government of similar class.

(5) All officers and servants appointed or employed under sub-section (3) shall be under the direct control and supervision of the Registrar. The powers of the Council and the Registrar to punish, dismiss, discharge and remove any such officer or servant shall be governed by such rules as may be framed by the Government in this behalf.

(6) All officers and servants appointed or employed under sub-sections (1) and (3) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

20. *Duties of Registrar.*—(1) Subject to the provisions of this Act and subject to any general or speical order of the appropriate council, it shall be the duty of the Registrar to keep the registers.

(2) There shall be separate registers for modern medicine, ayurvedic medicine, sidha medicine, unani tibbi medicine and

homoeopathic medicine. The registers shall be in such form and shall contain such particulars as may be prescribed by rules.

The register for modern medicine shall be divided into four parts A, A1, A2 and B,—

Part A containing the names of practitioners holding recognised qualifications;

Part A1 containing the names of persons registered in pursuance of clause (i) of sub-section (1) of section 24;

Part A2 containing the names of persons registered in pursuance of clause (ii) of sub-section (1) of section 24; and

Part B containing the names of persons registered in pursuance of clause (ii) of sub-section (1) or sub-section (5) of section 22.

The register for ayurvedic medicine, sidha medicine, unani tibbi medicine and homoeopathic medicine shall each be divided into two parts, A and B, Part A containing the names of,—

(i) practitioners holding recognised qualifications;

(ii) practitioners holding appointments as physicians, vaidyan or other medical officer under the Government at the commencement of this Act; and

(iii) in the case of the register for ayurvedic medicine, persons registered in pursuance of sub-section (4) of section 22 and persons registered under the rules for the Registration of Practitioners of Indian Medicine issued by the Government of Madras under class A referred to in rule 2 of the said rules; and

Part B containing the names of persons registered by virtue of clause (ii) of sub-section (1) of section 22.

(3) The Registrar shall keep the registers correct in accordance with the provisions of this Act and the rules and regulations made thereunder, and shall remove from the registers the names of registered practitioners who are dead or whose names are directed to be removed from the registers under sections 29, 34 and 35.

(4) For the purposes of this section, the Registrar may write by registered post to any registered practitioner at the address which is entered in the register to enquire whether he has ceased to practise or has changed his residence, and if no answer is received to the said letter within six months, the Registrar may remove the name of the said practitioner from the register:

Provided that the appropriate council may, on the application of the said practitioner and on payment of a fee of three rupees, direct that his name be re-entered in the register, if it is satisfied that the said practitioner has not ceased to practise.

(5) The registers shall be deemed to be public documents under section 74 of the Indian Evidence Act.

21. *Default of council.*—(1) If at any time it shall appear to the Government that a council has failed to exercise or has exceeded or abused any of the powers conferred on it by or under this Act or has failed to perform any of the duties imposed upon it by or under this Act, the Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to such council, and if such council fails to remedy such default, excess or abuse, within such time as the Government may fix in this behalf, the Government may dissolve such council and cause all or any of the powers and duties of such council to be exercised and performed by such person and for such period as it may think fit, and thereupon the funds and property of such council shall vest in the Government for the purposes of this Act until a new council shall have been constituted under section 3.

(2) When the Government have dissolved a council under sub-section (1), it shall take steps as soon as may be to constitute a new council under section 3; and thereupon the property and funds referred to in sub-section (1) shall vest in the council so constituted.

Registration

22. *Eligibility for registration.*—(1) Subject to the provisions of sub-sections (2) and (7),—

(i) every holder of a recognised qualification and every practitioner in Indian medicine or homoeopathic medicine holding appointment as a physician, vaidyan or other medical officer under the Government at the commencement of this Act; and

(ii) every person who applies for registration within a period of one year or such other longer period as may be fixed by the Government from the commencement of this Act, and proves to the satisfaction of the appropriate council that he has been in regular practice as a practitioner for a period of not less than five years preceding the first day of April 1962;

shall be eligible for registration under this Act.

(2) Applicants for registration under clause (ii) of sub-section (1) shall produce a certificate in Form I as set forth in the Schedule. The certificate shall be from an officer of the Revenue Department not below the rank of a Tahsildar or any other person authorised by the Government in this behalf.

(3) The Government may, after consulting the appropriate council, permit the registration of any person who shall furnish to such council proof that he is possessed of a medical degree, diploma or certificate of any University, medical school or college approved by such council other than those mentioned in the Schedule.

(4) The Government may, after consulting the Council of Indian Medicine, permit the registration of any person who is in the opinion of the Government, an eminent practitioner in Ayurvedic Medicine, in Part A of the Register for ayurvedic

medicine, notwithstanding the fact that he does not possess any recognised qualification.

(5) The Council for Modern Medicine may permit the registration in Part B of the register for modern medicine of any person who—

(i) became a resident of the State on or after 1-4-1962;

(ii) applies for registration within a period of six months from the commencement of this Act or within one year or such other longer period as may be fixed by the Government after becoming a resident of the State whichever period expires later; and

(iii) proves to the satisfaction of the Council of Modern Medicine, that he had been in regular practice as a practitioner in modern medicine for a period of not less than five years immediately preceding the date on which he became a resident of the State.

(6) The Government shall have power to direct the registration of any practitioner who, at the time of registration under this section, is employed in a hospital, asylum, infirmary, clinic, surgery, lying-in-hospital, sanatorium, nursing home, dispensary, medical school or college, vaidyasala or dharmasala managed by any corporate body:

Provided however that no such practitioner shall be registered under this sub-section after the expiration of one year or such other longer period as may be fixed by the Government, from the date on which this Act comes into force.

(7) No person shall be eligible for registration under sub-section (1), sub-section (3), sub-section (4), sub-section (5) or sub-section (6), if he is subject to any of the disqualifications mentioned in clauses (a) to (f) of section 7.

23. *Provisional registration in modern medicine.*— (1) If the courses of study to be undergone for obtaining a recognised qualification in modern medicine include a period of training after a person has passed the qualifying examination and before such qualification is conferred on him, any such person shall, on application made by him is this behalf, be granted provisional registration in modern medicine for the period aforesaid and thereupon he shall be entitled to practise modern medicine during such period in any institution recognised by the Government for the purpose.

(2) An application for provisional registration shall be in the prescribed form accompanied by a fee of Rs. 5.

24. *Special provisions relating to holders of degree of B.A.M., diploma of D.A.M., the diploma of G.C.I.M. and the diploma of L.I.M.*

(1) Notwithstanding anything contained in this Act,—

(i) any person—

(a) who, at the commencement of this Act, possesses the degree of B.A.M. or the diploma of D.A.M. of the University of Travancore or the University of Kerala; or

(b) who has been admitted to the course for such degree or diploma not later than the academic year 1958-59 and has taken the degree or diploma after the commencement of this Act; and

(c) who has been awarded the diploma of D.M.S. on passing the examination conducted by the Board of Examiners for the D.M.S. course constituted by the Government, shall be entitled to be registered in Part A1 of the register for modern medicine and on such registration he shall be entitled to all the privileges of a qualified registered practitioner in modern medicine in the State; and upon recognition of the said diploma of D.M.S. by the Indian Medical Council, his name will be registered in Part A of the register for modern medicine;

(ii) any person—

(a) who, at the commencement of this Act possesses the degree of B.A.M. or the diploma of D.A.M. of the University of Travancore or the University of Kerala or the diploma of Graduate of the College of Integrated Medicine or the diploma of Licentiate in Integrated Medicine granted by the Board of Examiners in Integrated Medicine, Madras; or

(b) who has been admitted to the course for the said degree of B.A.M. or the diploma of D.A.M. not later than the academic year 1958-59 and has taken such degree or diploma after the commencement of this Act;

shall be entitled to be registered in Part A2 of the register for modern medicine and on such registration he shall be entitled to all the previleges of a qualified registered practitioner in modern medicine in the State.

Explanation.—For the purposes of this sub-section admission to pre-professional course for the degree of B.A.M. or the diploma of D.A.M. shall be deemed to be admission to the course for such degree or diploma.

(2) No person shall be eligible for registration under sub-section (1),—

(a) if he is subject to any of the disqualifications mentioned in clauses (a) to (d) of section 7;

(b) if he has been punished by the Council of Indian Medicine in any manner for infamous conduct in the profession or if he has been dismissed from service under any Government.

25. *Registration fee.*—(1) An application for registration under this Act shall be in Form II, as set forth in the Schedule accompanied by a fee of Rs. 20.

(2) Every registered practitioner who applies to the Registrar for registration in respect of any additional recognised qualification shall pay a fee of Rs. 5.

(3) If the appropriate council directs the registration of the applicant, the Registrar shall enter the name of the applicant in the appropriate register and issue to him a certificate in such form and containing such particulars as may be prescribed by rules.

(4) Nothing in sub-section (1) or sub-section (2) shall be deemed to apply to any person whose name has been registered for the primary or additional recognised qualification, as the case may be, under any enactment for the registration of practitioners in modern medicine, Indian medicine or homeopathic medicine for the time being in force in any State in India, if the said enactment provides for the registration of persons registered under this Act without payment of any fee or on payment of a smaller fee for the primary or additional recognised qualification, as the case may be.

(5) Subject to the provisions of section 27 of the Indian Medical Council Act, 1956, any practitioner not registered under this Act or to whom sub-section (4) does not apply but registered in any other State in India shall obtain the previous permission of the appropriate council for practising as a medical practitioner in the State on payment of such fee as may be prescribed by rules.

26. *List of practitioners as on 1st April, 1962.*—(1) The Registrar shall prepare and keep a list called "List of persons in practice on the first day of April, 1962".

(2) Every person not being a person qualified for or entitled to registration under this Act, who within a period of one year, or such other longer period as may be fixed by the Government, from the commencement of this Act proves to the satisfaction of the Registrar that he has been in regular practice in the State on the first day of April, 1962 of modern medicine, ayurvedic medicine, siddha medicine, unani tibbi medicine or homoeopathic medicine, shall be entitled to have his name entered in the aforesaid list on payment of Rs. 10:

Provided however that any person whose name has been removed from the registers maintained under the Travancore-Medical Practitioners Act, 1119 or the Travancore-Cochin Medical Practitioners Act, 1953 or the registers maintained under any Act of a State Legislature in India or the register of any country where he was formerly practising, for infamous conduct in a professional respect, shall not be entitled to have his name entered in the list.

(3) The provisions of sub-section (3) and (4) of section 20, section 28 and section 34 shall *mutatis mutandis* apply to the list referred to in sub-section (1).

27. *Practitioners registered under prior Acts.*—(1) Every practitioner registered under the Travancore Medical Practitioners Act, 1119 or the Travancore-Cochin Medical Practitioners Act, 1953 or the Madras Medical Registration Act, 1914, shall be deemed to be a practitioner registered under this Act, if, at the commencement of this Act, his name stands entered in the appropriate register maintained under the said Act, and every certificate of registration issued to every such practitioner shall be deemed to be a certificate of registration issued under this Act:

Provided that any medical practitioner registered under the Madras Medical Registration Act, 1914, or registered under Part A of the register for modern medicine maintained under Travancore Medical Practitioners Act, 1119, or the Travancore-Cochin Medical Practitioners Act, 1953, but does not possess a recognised medical qualification as defined in the Indian Medical Council Act, 1956 (Central Act 102 of 1956), shall be deemed to be a practitioner registered in Part A1 of the Register for modern medicine, maintained under this Act, if at the commencement of this Act, his name so stands entered in the said register.

(2) The Registrar shall, as soon as may be after the commencement of this Act, enter in the appropriate registers the names of all such practitioners as are referred to in sub-section (1) without an application and without payment of any fee.

28. *Application for registration.*—(1) All applications for registration under section 22 or under section 24 shall be sent direct to the Registrar.

(2) The Registrar shall place all applications under this section before the committee of the appropriate council appointed for the purpose for its report.

(3) The report of the committee under sub-section (2) shall be placed before the appropriate council for its decision.

29. *Removal from registers by council.*—(1) The name of any person who becomes subject to any of the disqualifications mentioned in clauses (b) to (e) of section 7 shall be liable to be removed altogether or for a specified period from the register:

Provided that the appropriate council may, on sufficient cause being shown, direct that the name of the practitioner so removed shall be re-entered in the register.

(2) The name of no practitioner shall be removed from the register on the ground of his association in any professional respect with an unregistered practitioner for consultation if such unregistered practitioner is possessed of any recognised qualification:

Provided that the registered practitioner shall not be relieved of any obligations or compliance with any rules of conduct which may be imposed upon registered practitioners generally by the appropriate council.

30. *Removal from registers on application.*—(1) Any practitioner registered under this Act may make an application to the appropriate council for the removal of his name from the register of practitioners and the council may on such application direct such removal:

Provided that no application from such practitioner for the removal of his name from the register shall be considered during the pendency of any disciplinary proceedings against him or

in case any disciplinary proceedings are contemplated against him, until such proceedings are dropped, or commenced and concluded:

Provided further that if any such application is made with a view to enable the applicant to pursue a course of conduct which would have brought him under the disciplinary jurisdiction of the appropriate council, had his name continued to remain on the register, it shall be rejected

(2) A practitioner whose name has been removed from the register under sub-section (1) may, on application being made and on payment of such fee as may be prescribed by rules, get himself re-registered, if he is at that time eligible for registration under this Act.

31. *Annual list of practitioners.*—(1) The Registrar shall, in every year on or before the date to be fixed by the appropriate council, cause to be published in the Gazette a full or supplementary list of the names and qualifications of all practitioners registered under this Act and the dates when such qualifications were acquired.

(2) The Registrar shall, from time to time, cause to be published in the Gazette the names of such practitioners which have been duly removed under any of the provisions of this Act.

(3) In any proceeding it shall be presumed that every person whose name is entered in the list published under sub-section (1) is a registered practitioner and that any person whose name is not so entered is not a registered practitioner:

Provided that, in the case of a person whose name has been entered in the register after the publication of the list, a certified copy signed by the Registrar of the entry of the name of such person in the register shall be evidence that such person is registered under this Act. Such certificate shall be issued free of charge.

323. *Disability.*—(1) No registered practitioner, other than a qualified registered practitioner, who has not undergone a course of practical training in surgery or obstetrics under modern medicine to the satisfaction of the Council of Modern Medicine, shall practise surgery or obstetrics.

(2) No registered practitioner shall follow any other profession without the sanction of the appropriate council so long as his name continues in the register.

33. *Privileges.*—(1) Notwithstanding anything contained in any law for the time being in force—

(i) the words "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word or words importing a person recognised by law as a medical practitioner or member of the medical profession when used in any enactment for the time being in force in the State shall be construed to mean a qualified registered practitioner;

(ii) no certificate required by law to be given by a medical practitioner shall be valid unless it is signed by a practitioner registered in Part A of the Register;

(iii) no person other than a qualified registered practitioner shall be eligible to hold, after one year from the commencement of this section, any appointment as a physician, surgeon, vaidyan or other medical officer in any dispensary, hospital, infirmary, clinic, surgery, lying-in-hospital, sanatorium, nursing home, vaidyasala, dharmasala, or other similar institution or as a teacher in any Medical School or College:

Provided that this clause shall not be deemed to operate against a registered practitioner, not being the holder of a recognised qualification, who at the commencement of this Act holds any such appointment.

(2) Any person who, not being eligible to hold any appointment referred to in clause (iii) of sub-section (1), holds any such appointment or who employs in such appointment any person who is not eligible to hold such appointment in any institution for the management of which he is responsible, shall on conviction be punishable with fine which may extend to fifty rupees.

(3) Whoever, after having been convicted under sub-section (2), continues to hold any such appointment, or continues to employ such person in such appointment in any such institution shall, on conviction, be punished for each day after the previous date of conviction during which he continues to hold the appointment, or to employ such person, with fine which may extend to twenty rupees.

34. *Appeal to the council from the action of the Registrar.*—(1) Any person aggrieved by any act or order of the Registrar under this Act may appeal to the appropriate council.

(2) Such appeal shall be heard and decided by the council in the manner prescribed by regulations.

(3) The appropriate council may, of its own motion or on the application of any person, after such inquiries as the council may deem fit to make and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the register, if, in the opinion of the council, such entry was fraudulently or incorrectly made.

35. *Alteration of register by Government.*—The Government may, after giving due notice to the person concerned and to the appropriate council and after inquiry into his objections, if any, order that any entry in the register which shall be proved to the satisfaction of the Government to have been fraudulently or incorrectly made or brought about be cancelled or amended.

36. *Appeal to Government from the decision of the council.*—An appeal shall lie to the Government from every decision of a council under sections 25, 28, 29 and 34. Such appeal shall be preferred within three months from the date on which notice

of the order of the council was issued, in such manner and subject to such conditions as may be prescribed by rules.

37. *Rules.*—(1) The Government may, after previous publication, make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules—

(a) with reference to all matters expressly required or allowed by this Act to be prescribed by rules;

(b) with reference to the elections of President and Vice-president or members including election petitions and deposits to be made by candidates standing for election as members and the conditions under which such deposits may be forfeited:

Provided that the deposit required shall not exceed fifty rupees;

(c) as to the manner in which vacancies shall be filled under section 10;

(d) as to the fees and other allowances payable to the President, Vice-president and other members of each council under section 17;

(e) as to the salary, allowances and other conditions of service of the Registrar under section 19;

(f) as to the powers of the Registrar to punish the officers and servants appointed or employed under section 19;

(g) as to the form of the registers and the particulars to be entered therein under section 20;

(h) as to the application of the fees and other amounts received under this Act;

(i) as to the form of the certificate to be issued under section 25 and the particulars which it shall contain;

(j) as to the procedure relating to appeal to the Government from the decisions of each council under section 36;

(k) as to the furtherance of any of the objects of each council.

(3) All rules made under this section shall be published in the Gazette.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

38. *Regulations.*—(1) Each council may, subject to the provisions of sub-section (2), with the previous sanction of the Government, make regulations not inconsistent with this Act or the rules made thereunder for all or any of the following matters, namely:—

(a) the time and place at which the council shall hold its meetings and the manner in which such meetings shall be convened and held;

(b) the procedure relating to appeals under section 34;

(c) the procedure to be followed in making reports under section 48;

(d) all other matters which may be necessary for the purpose of carrying out the objects of this Act.

(2) (a) As soon as may be after the first council under this Act is constituted, the Council of Modern Medicine and the Council of Indian Medicine shall each appoint a committee consisting of five members excluding the *ex-officio* members, and the Council of Homoeopathic medicine shall appoint a committee consisting of three members excluding *ex-officio* members to draw up the first regulations under this Act. The Registrar and the Secretary to Government in charge of Health Department shall be *ex-officio* members of each committee. Three members shall form the quorum of each committee.

(b) The committee shall draw up the regulations. The regulations framed by the committee shall be placed before the appropriate council for its consideration. The council may make such modifications as it considers necessary in the regulations and the regulations with such modifications shall be submitted to the Government for confirmation.

(3) All regulations made under this section and duly confirmed by the Government shall be published in the Gazette.

(4) The Government may, by notification in the Gazette, cancel any such regulations.

PART III

MEDICAL PRACTITIONERS GENERALLY

39. *Persons not registered under this Act, etc., not to practise.*—Subject to the provisions of section 27 of the Indian Medical Council Act, 1956, no person other than (i) a registered practitioner or (ii) a practitioner whose name is entered in the list of practitioners published under section 31 or (iii) a practitioner whose name is entered in the list mentioned in section 26 shall practice or hold himself out, whether directly or by implication, as practising modern medicine, ayurvedic medicine, sidha medicine, unani tibbi medicine or homoeopathic medicine and no person who is a registered practitioner of any such medicine shall practise any other medicine unless he is also a registered practitioner of that medicine:

Provided that the Government may, by notification in the Gazette, direct that this section shall not apply to any person or class of persons or to any specified area in the State where none of the three classes of practitioners mentioned above carries on medical practice:

Provided further that this section shall not apply to a practitioner eligible for registration under this Act who, after having filed the application for registration, is awaiting the decision of the appropriate council or of the Government in case of appeal:

Provided also that this section shall not apply to a practitioner eligible for registration under this Act until the period prescribed for applications under section 22 expires.

40. *Penalty.*—Any person who acts in contravention of section 39 shall, on conviction, be punishable with fine which may extend to Rs. 100 for the first offence and to Rs. 500 for every subsequent offence after his conviction for such first offence.

41. *Authority to confer title.*—The right of conferring, granting or issuing in the State, degrees, diplomas, licences, certificates or other documents stating or implying that the holder, grantee or recipient thereof is qualified to practise modern medicine, ayurvedic medicine, sidha medicine, unani tibbi medicine or homoeopathic medicine shall be exercisable only by an authority, body or institution mentioned in the Schedule.

42. *Prohibition of conferment, etc., of degree, etc.*— (1) Save as provided by section 41, no person shall confer, grant or issue or hold himself out as entitled to confer, grant or issue any degree, diploma, licence, certificate or other document stating or implying that the holder, grantee or recipient thereof is qualified to practise modern medicine, ayurvedic medicine, sidha medicine, unani tibbi medicine or homoeopathic medicine.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to Rs. 1,000 and if the person so contravening is an association, every member of such association who knowingly or wilfully authorises or permits the contravention shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

43. *Penalty for unauthorised use of titles etc., implying medical qualifications.*—(1) No person shall add to his name any title, letters or abbreviations which imply that he holds a degree, diploma, licence or certificate as his qualification to practise modern medicine, ayurvedic medicine, sidha medicine, unani tibbi medicine or homoeopathic medicine, unless—

(a) he actually holds such degree, diploma, licence or certificate, and

(b) such degree, diploma, licence or certificate—

(i) is recognised by any law for the time being in force in the State; or

(ii) has been conferred, granted or issued by an authority referred to in the Schedule; or

(iii) has been recognised by the Medical Council of India.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable, in the case of a first conviction, with fine which may extend to Rs. 250 and in the case of a subsequent conviction, with fine which may extend to Rs. 500.

44. *Penalty for falsely assuming or using medical titles.*—Whoever wilfully and falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, licence or certificate conferred, granted or issued by any authority referred to in section 41 or recognised by the Medical Council of India or that he is qualified to practise modern medicine, ayurvedic medicine, sidha medicine, unani tibbi medicine or homoeopathic medicine shall be punishable with fine which may extend to Rs. 250 for the first offence and with fine which may extend to Rs. 500 for every subsequent offence.

45. *Prosecution.*—Whenever a council is of the opinion that the prosecution of any person for breaches of any of the provisions of this Act is necessary, such council may, by resolution and with the previous approval of the Government authorise the Registrar or any member of such council to initiate such prosecution.

46. *Jurisdiction of Magistrate.*— (1) No court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

(2) No court shall take cognisance of any offence under this Act except on a complaint in writing of the Registrar or the member of the council authorised under section 45.

47. *Jurisdiction of civil courts barred.*—No act done inthe exercise of any power conferred by or under this Act on the Government, a council, the executive committees, the Registrar or any member of a council shall be questioned in any civil court.

PART IV

MISCELLANEOUS

48. *Alteration of list of recognised qualifications mentioned in the Schedule.*—If it shall appear to the Government, on the report of the appropriate council or otherwise that the course of study and examinations prescribed by any of the medical schools or colleges or bodies conferring the qualifications described in

the Schedule are not such as to secure the possession by persons obtaining such qualifications of the requisite knowledge and skill for the efficient practice of their profession, or if it shall appear to the Government, on the report of the appropriate council or otherwise that the course of study and examinations prescribed by any medical school or college or body conferring a qualification not entered in the Schedule are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for the Government, from time to time by notification in the Gazette, to direct that the possession of any qualification entered in the Schedule shall not entitle any person to registration under this Act, or to direct that the possession of any qualification not entered in the Schedule shall, subject to the provisions of this Act, entitle a person to be so registered, as the case may be, and the Schedule shall thereupon be deemed for all purposes to be altered accordingly.

49. *Repeal.*—The Travancore-Cochin Medical Practitioners Act, 1953 (Act IX of 1953), and the Madras Medical Registration Act, 1914 (Madras Act IV of 1914), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), are hereby repealed.

THE SCHEDULE

(*See* sections 2 and 48)

RECOGNISED QUALIFICATIONS

Part A

Qualifications for Modern Medicine.

1. Any medical degree or diploma granted by—
   (i) The University of Travancore or the University of Kerala;
   (ii) Universities established by an Act of Parliament;
   (iii) Any other University in India recognised by the Government;
   (iv) State Medical Faculty of Bengal;
   (v) College of Physicians and Surgeons of Bombay;
   (vi) Board of Examiners, Medical College, Madras.

2. All qualifications recognised under the Indian Medical Council Act, 1956.

Part B

Qualifications for Ayurvedic Medicine

I. Certificate or Diploma in Ayurveda granted by—
   (1) The University of Travancore or the University of Kerala.
   (2) His Highness the Maharaja's Ayurveda College, Trivandrum or the Governments of Travancore, Cochin and Travancore-Cochin.
   (3) The Government Ayurveda College, Tripunithura.
   (4) The Benares Hindu University, Benares.
   (5) The Mysore Government Ayurvedic Vidyalaya, Mysore.

II. The L.I.M. Diploma in Ayurveda granted by the School of Indian Medicine, Madras and the G.C.I.M. qualification awarded by the Board of Examiners in Ietegrated Medicine, Madras.

III. The qualification Ayurveda Siromani awarded by the University of Madras.

IV. The Ayurveda Bhooshanam Certificates granted by the Board of Public Examination of the erstwhile State of Cochin from 1114 M.E. onwards.

V. The Vaidya Padan diploma granted by the Keraleeya Ayurveda Mahapatasala, Shorannur.

VI. The Arya Vaidya Diploma granted by the Arya Vaidya Patasala, Kottakkal.

VII. The Vaidya Vibhooshanam diploma granted by the Madhava Memorial Ayurvedic College, Cannanore.

VIII. The Certificate "High Proficiency in Ayurveda" (H.P.A) granted by the Post Graduate Training Centre in Ayurveda, Jamnagar.

Part 'C'

Qualifications for Sidha Medicine

I. The D.I.M. & S. Diploma granted by the Board of Indigenous Medicine constituted by the Government of Ceylon.

II. Diploma or certificate in Sidha Medicine recognised by the Government of Madras.

III. Certificate or diploma granted by the All Travancore Sidha Vaidya Sanghom, Munchira, upto the last day of May, 1947.

Part 'D'

Qualifications for Unani Tibbi Medicine

Certificate or Diploma in Unani Tibbi Medicine granted by—

1. Government of Madras
2. The Tibbi College, Delhi
3. The Aligarh University.

Part 'E'

Qualifications for Homoeopathic Medicine

I. Certificate or Diploma granted by—

(1) The Calcutta Homoeopathic College and Hospital, West Bengal.

(2) The Bengal Allen Homoeopathic Medical College and Hospital West Bengal.

(3) Pratap Chandran Memorial Homœopathic Hospital and College, West Bengal.

(4) The Dunham Homoeopathic Medical College and Hospital, West Bengal.

(5) Herring Homoeopathic Medical College and Hospital, West Bengal (upto 1943).

(6) The Standard Homoeopathic Medical College and Hospital, West Bengal (upto 1943).

(7) The Regular Homoeopathic Medical College, West Bengal.

(8) The Central Homoeopathic College, West Bengal, (upto 1945).

(9) D. H. M. granted by the Government of Kerala.

II. Diploma granted by the General Council and State Faculty of Homoeopathic Medicine, West Bengal.

III. L.M. & H. (M) of the College of Physicians and Surgeons, Calcutta (upto 1920).

IV. All qualifications which may be recognised by the Government.

FORMS

FORM I

CERTIFICATE OF FIVE YEARS PRACTICE REFERRED TO IN SECTION 22(2)

Office of the ....

Dated .... 19......

On the basis of the records in this Office or facts known after due inquiry I certify that Sri .... has been shown or proved as following the occupation of a practitioner of the .... Medicine for not less than five years as shown below:—

(a) at 1 (b) from..........to..........
2 from..........to..........
3 from..........to..........

1. The date of birth of the applicant
2. Present occupation of the applicant
3. Father's name and occupation
4. Other occupations (if any) of the applicant.

Signature.

Designation

(a) Here enter the name or names of the place or places where the applicant is shown of practising or having practised.

(b) Here enter the dates showing the beginning and termination of practice in each place.

N.B.—

(1) The certificate should bear the date stamp of the office of issue, if any.

(2) The printed wording in the certificate should not be altered.

(3) Other occupations to be noted in the column are other occupations followed during the periods of practice noted above.

FORM II

APPLICATION FOR REGISTRATION REFERRED TO IN SECTION 25(1)

Professional address.

Dated ....19....

To

The Registrar,

The Council of Modern Medicine, The Council of Indian Medicine, The Council of Homoeopathic Medicine, Kerala, Trivandrum.

Sir,

I have the honour to request that my name may be registered under the Kerala Medical Practitioners Act. 1963 and that I may be furnished with a certificate of registration.

2. The information necessary for registration is specified below.

3. The diploma which I possess is forwarded herewith in original which please return when no longer required.

4. The registration fee of Rs. 20 is herewith sent.

Yours faithfully,

(Signature)

Applicant's name in full (the full signification of the initials which stand before the name should be given).

Date of birth.

Father's name.

Medical qualifications of which registration is required.

College or school where each was obtained.

Year of diploma.

Any remarks

STATEMENT OF OBJECT AND REASONS

....

The law for regulating the qualifications and for providing for the registration of practitioners of modern medicine, homeopathic medicine and indigenous medicine, in force in the Travancore-Cochin area of the State is the Travancore-Cochin Medical Practitioners Act, 1953. The corresponding law regarding modern medicine in force in the Malabar area of the State is the Madras Medical Registration Act, 1914. There is no law in force in the Malabar area for regulating the qualifications and for providing for the registration of practitioners of homeopathic or indigenous medicine. It is considered necessary to have a unified comprehensive legislation incorporating all the necessary provisions for the whole State and to repeal the Travancore-Cochin Medical Practitioners Act and the Madras Medical Registration Act. The Bill is intended for this purpose.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 37 of the Bill empowers Government to make rules, after previous publication to carry out all or any of the purposes of the Act. Under the said clause rules may be made regarding the election of President and vice-President or members of the councils, as to the manner in which vacancies shall be filled under section 10, as to the fees and other allowances payable to the President Vice-president and other members of each council under section 17, as to the salary, allowances and other conditions of service of the Registrar under section 19, as to the powers of the Registrar to punish the officers and servants appointed or employed under section 19, as to the form of registers and the particulars to be entered therein under section 20, etc. The matters in respect of which rules may be made are of a routine and administrative character. Moreover, the rules shall be subject to the scrutiny of the Legislative Assembly.

M. P. GOVINDAN NAIR